

REFERENCE TITLE: tax credit; fire station donation

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## **HB 2022**

Introduced by  
Representative Paton

AN ACT

AMENDING SECTIONS 43-1089.02 AND 43-1181, ARIZONA REVISED STATUTES; RELATING  
TO INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 43-1089.02, Arizona Revised Statutes, is amended to  
3 read:  
4 43-1089.02. Credit for donation of school or fire station site  
5 A. A credit is allowed against the taxes imposed by this title in the  
6 amount of ~~thirty~~ FIFTY per cent of the value of real property and  
7 improvements donated by the taxpayer to:  
8 1. A school district or a charter school for use as a school or as a  
9 site for the construction of a school.  
10 2. A FIRE DISTRICT FOR USE AS A FIRE STATION OR AS A SITE FOR THE  
11 CONSTRUCTION OF A FIRE STATION.  
12 B. To qualify for the credit:  
13 1. The real property and improvements must be located in this state.  
14 2. The real property and improvements must be conveyed unencumbered  
15 and in fee simple, except that:  
16 (a) The conveyance must include as a deed restriction and protective  
17 covenant running with title to the land the requirement that as long as the  
18 donee holds title to the property the property shall only be used as a school  
19 or as a site for the construction of a school, subject to subsection I or J  
20 of this section, OR AS A FIRE STATION OR AS A SITE FOR THE CONSTRUCTION OF A  
21 FIRE STATION.  
22 (b) In the case of a donation to a charter school, the donor shall  
23 record a lien on the property as provided by subsection J, paragraph 3 of  
24 this section.  
25 3. The conveyance shall not violate section 15-341, subsection D ~~and~~  
26 OR section 15-183, subsection ~~V~~ U.  
27 C. For THE purposes of this section, the value of the donated property  
28 is the property's fair market value as determined in an appraisal as defined  
29 in section 32-3601 that is conducted by an independent party and that is paid  
30 for by the donee.  
31 D. If the property is donated by co-owners, including partners in a  
32 partnership and shareholders of an S corporation, as defined in section 1361  
33 of the internal revenue code, each donor may claim only the pro rata share of  
34 the allowable credit under this section based on the ownership interest. If  
35 the property is donated by a husband and wife who file separate returns for a  
36 taxable year in which they could have filed a joint return, they may  
37 determine between them the share of the credit each will claim. The total of  
38 the credits allowed all co-owner donors may not exceed the allowable credit.  
39 E. If the allowable tax credit exceeds the taxes otherwise due under  
40 this title on the claimant's income, or if there are no taxes due under this  
41 title, the taxpayer may carry the amount of the claim not used to offset the  
42 taxes under this title forward for not more than five consecutive taxable  
43 years' income tax liability.  
44 F. The credit under this section is in lieu of any deduction pursuant  
45 to section 170 of the internal revenue code taken for state tax purposes.

1 G. On written request by the donee, the donor shall disclose in  
2 writing to the donee the amount of the credit allowed pursuant to this  
3 section with respect to the property received by the donee.

4 H. A school district, ~~or~~ charter school OR FIRE DISTRICT may refuse  
5 the donation of any property for purposes of this section.

6 I. If the donee is a school district:

7 1. The district shall notify the school facilities board established  
8 by section 15-2001 and furnish the board with any information the board  
9 requests regarding the donation. A school district shall not accept a  
10 donation pursuant to this section unless the school facilities board has  
11 reviewed the proposed donation and has issued a written determination that  
12 the real property and improvements are suitable as a school site or as a  
13 school. The school facilities board shall issue a determination that the  
14 real property and improvements are not suitable as a school site or as a  
15 school if the expenses that would be necessary to make the property suitable  
16 as a school site or as a school exceed the value of the proposed donation.

17 2. The district may sell any donated property pursuant to section  
18 15-342, but the proceeds from the sale shall only be used for capital  
19 projects. The school facilities board shall withhold an amount that  
20 corresponds to the amount of the proceeds from any monies that would  
21 otherwise be due the school district from the school facilities board  
22 pursuant to section 15-2041.

23 J. If the donee is a charter school:

24 1. The charter school shall:

25 (a) Immediately notify the sponsor of the charter school by certified  
26 mail and shall furnish the sponsor with any information requested by the  
27 sponsor regarding the donation during the ten year period after the  
28 conveyance is recorded.

29 (b) Notify the sponsor by certified mail, and the sponsor shall notify  
30 the state treasurer, in the event of the charter school's financial failure  
31 or if the charter school:

32 (i) Fails to establish a charter school on the property within  
33 forty-eight months after the conveyance is recorded.

34 (ii) Fails to provide instruction to pupils on the property within  
35 forty-eight months after the conveyance is recorded.

36 (iii) Establishes a charter school on the property but subsequently  
37 ceases to operate the charter school on the property for twenty-four  
38 consecutive months or fails to provide instruction to pupils on the property  
39 for twenty-four consecutive months.

40 2. The charter school, or a successor in interest, shall pay to the  
41 state treasurer the amount of the credit allowed under this section, or if  
42 that amount is unknown, the amount of the allowable credit under this  
43 section, if any of the circumstances listed in paragraph 1, subdivision (b)  
44 of this subsection occur. If the amount is not paid within one year after  
45 the treasurer receives notice under paragraph 1, subdivision (b) of this

1 subsection, a penalty and interest shall be added, determined pursuant to  
2 title 42, chapter 1, article 3.

3 3. A tax credit under this section constitutes a lien on the property,  
4 which the donor must record along with the title to the property to qualify  
5 for the credit. The amount of the lien is the amount of the allowable credit  
6 under this section, adjusted according to the average change in the GDP price  
7 deflator, as defined in section 41-563, for each calendar year since the  
8 donation, but not exceeding twelve and one-half per cent more than the  
9 allowable credit. The lien is subordinate to any liens securing the  
10 financing of the school construction. The lien is extinguished on the  
11 earliest of the following:

12 (a) Ten years after the lien is recorded. After that date, the  
13 charter school, or a successor in interest, may request the state treasurer  
14 to release the lien.

15 (b) On payment to the state treasurer by the donee charter school, or  
16 by a successor in interest, of the amount of the allowable credit under this  
17 section, either voluntarily or as required by paragraph 2 of this  
18 subsection. After the required amount is paid, the charter school or  
19 successor in interest may request the state treasurer to release the lien.

20 (c) On conveyance of fee simple title to the property to a school  
21 district.

22 (d) On enforcement and satisfaction of the lien pursuant to paragraph  
23 4 of this subsection.

24 4. The state treasurer shall enforce the lien by foreclosure within  
25 one year after receiving notice of any of the circumstances described in  
26 paragraph 1, subdivision (b) of this subsection.

27 5. Subject to paragraphs 3 and 4 of this subsection, the charter  
28 school may sell any donated property.

29 Sec. 2. Section 43-1181, Arizona Revised Statutes, is amended to read:  
30 43-1181. Credit of donation of school or fire station site

31 A. A credit is allowed against the taxes imposed by this title in the  
32 amount of ~~thirty~~ FIFTY per cent of the value of real property and  
33 improvements donated by the taxpayer to:

34 1. A school district or a charter school for use as a school or as a  
35 site for the construction of a school.

36 2. A FIRE DISTRICT FOR USE AS A FIRE STATION OR AS A SITE FOR THE  
37 CONSTRUCTION OF A FIRE STATION.

38 B. To qualify for the credit:

39 1. The real property and improvements must be located in this state.

40 2. The real property and improvements must be conveyed unencumbered  
41 and in fee simple except that:

42 (a) The conveyance must include as a deed restriction and protective  
43 covenant running with title to the land the requirement that as long as the  
44 donee holds title to the property the property shall only be used as a school  
45 or as a site for the construction of a school, subject to subsection I or J

1 of this section, OR AS A FIRE STATION OR AS A SITE FOR THE CONSTRUCTION OF A  
2 FIRE STATION.

3 (b) In the case of a donation to a charter school, the donor shall  
4 record a lien on the property as provided by subsection J, paragraph 3 of  
5 this section.

6 3. The conveyance shall not violate section 15-341, subsection D or  
7 section 15-183, subsection U.

8 C. For the purposes of this section, the value of the donated property  
9 is the property's fair market value as determined in an appraisal as defined  
10 in section 32-3601 that is conducted by an independent party and that is paid  
11 for by the donee.

12 D. If the property is donated by co-owners, including corporate  
13 partners in a partnership, each donor may claim only the pro rata share of  
14 the allowable credit under this section based on the ownership interest. The  
15 total of the credits allowed all co-owner donors may not exceed the allowable  
16 credit.

17 E. If the allowable tax credit exceeds the taxes otherwise due under  
18 this title on the claimant's income, or if there are no taxes due under this  
19 title, the taxpayer may carry the amount of the claim not used to offset the  
20 taxes under this title forward for not more than five consecutive taxable  
21 years' income tax liability.

22 F. The credit under this section is in lieu of any deduction pursuant  
23 to section 170 of the internal revenue code taken for state tax purposes.

24 G. On written request by the donee, the donor shall disclose in  
25 writing to the donee the amount of the credit allowed pursuant to this  
26 section with respect to the property received by the donee.

27 H. A school district, ~~or~~ charter school OR FIRE DISTRICT may refuse  
28 the donation of any property for purposes of this section.

29 I. If the donee is a school district:

30 1. The district shall notify the school facilities board established  
31 by section 15-2001 and furnish the board with any information the board  
32 requests regarding the donation. A school district shall not accept a  
33 donation pursuant to this section unless the school facilities board has  
34 reviewed the proposed donation and has issued a written determination that  
35 the real property and improvements are suitable as a school site or as a  
36 school. The school facilities board shall issue a determination that the  
37 real property and improvements are not suitable as a school site or as a  
38 school if the expenses that would be necessary to make the property suitable  
39 as a school site or as a school exceed the value of the proposed donation.

40 2. The district may sell any donated property pursuant to section  
41 15-342, but the proceeds from the sale shall only be used for capital  
42 projects. The school facilities board shall withhold an amount that  
43 corresponds to the amount of the proceeds from any monies that would  
44 otherwise be due the school district from the school facilities board  
45 pursuant to section 15-2041.

1 J. If the donee is a charter school:  
2 1. The charter school shall:  
3 (a) Immediately notify the sponsor of the charter school by certified  
4 mail and shall furnish the sponsor with any information requested by the  
5 sponsor regarding the donation during the ten year period after the  
6 conveyance is recorded.  
7 (b) Notify the sponsor by certified mail, and the sponsor shall notify  
8 the state treasurer, in the event of the charter school's financial failure  
9 or if the charter school:  
10 (i) Fails to establish a charter school on the property within  
11 forty-eight months after the conveyance is recorded.  
12 (ii) Fails to provide instruction to pupils on the property within  
13 forty-eight months after the conveyance is recorded.  
14 (iii) Establishes a charter school on the property but subsequently  
15 ceases to operate the charter school on the property for twenty-four  
16 consecutive months or fails to provide instruction to pupils on the property  
17 for twenty-four consecutive months.  
18 2. The charter school, or a successor in interest, shall pay to the  
19 state treasurer the amount of the credit allowed under this section, or if  
20 that amount is unknown, the amount of the allowable credit under this  
21 section, if any of the circumstances listed in paragraph 1, subdivision (b)  
22 of this subsection occur. If the amount is not paid within one year after  
23 the treasurer receives notice under paragraph 1, subdivision (b) of this  
24 subsection, a penalty and interest shall be added, determined pursuant to  
25 title 42, chapter 1, article 3.  
26 3. A tax credit under this section constitutes a lien on the property,  
27 which the donor must record along with the title to the property to qualify  
28 for the credit. The amount of the lien is the amount of the allowable credit  
29 under this section, adjusted according to the average change in the GDP price  
30 deflator, as defined in section 41-563, for each calendar year since the  
31 donation, but not exceeding twelve and one-half per cent more than the  
32 allowable credit. The lien is subordinate to any liens securing the  
33 financing of the school construction. The lien is extinguished on the  
34 earliest of the following:  
35 (a) Ten years after the lien is recorded. After that date, the  
36 charter school, or a successor in interest, may request the state treasurer  
37 to release the lien.  
38 (b) On payment to the state treasurer by the donee charter school, or  
39 by a successor in interest, of the amount of the allowable credit under this  
40 section, either voluntarily or as required by paragraph 2 of this  
41 subsection. After the required amount is paid, the charter school or  
42 successor in interest may request the state treasurer to release the lien.  
43 (c) On conveyance of fee simple title to the property to a school  
44 district.

1           (d) On enforcement and satisfaction of the lien pursuant to paragraph  
2 4 of this subsection.  
3           4. The state treasurer shall enforce the lien by foreclosure within  
4 one year after receiving notice of any of the circumstances described in  
5 paragraph 1, subdivision (b) of this subsection.  
6           5. Subject to paragraphs 3 and 4 of this subsection, the charter  
7 school may sell any donated property.  
8           Sec. 3. Effective date  
9           This act is effective and applies to taxable years beginning from and  
10 after December 31, 2008.